

EXTRADITION

Treaty signed at Washington May 14, 1900

*Senate advice and consent to ratification, with amendments, June 5, 1900*¹

Ratified by Switzerland January 21, 1901

*Ratified by the President of the United States, with amendments, February 25, 1901*¹

Ratifications exchanged at Washington February 27, 1901

Proclaimed by the President of the United States February 28, 1901

Entered into force March 29, 1901

Supplemented by treaties of January 10, 1935,² and January 31, 1940³

31 Stat. 1928; Treaty Series 354

The Government of the United States of America and the Federal Council of the Swiss Confederation, with a view to the better administration of justice, have resolved to conclude a new Convention for the extradition of fugitive criminals, and, for that purpose, have appointed as their Plenipotentiaries, to wit:

The President of the United States of America: John Hay, Secretary of State of the United States; the Federal Council of the Swiss Confederation: J. B. Pioda, Envoy Extraordinary and Minister Plenipotentiary of Switzerland to the United States; Who, after communicating to each other their full powers, which were found in good and due form, have agreed upon the following Articles:

ARTICLE I

The Government of the United States of America and the Swiss Federal Council bind themselves mutually to surrender such persons as, being charged with or convicted of any of the crimes or offenses enumerated herein-after in Article II, committed in the territory of one of the contracting States,

¹ The U.S. amendments called for deleting, in art. II, para. 6, the phrase "hired or salaried" after "or by" and inserting the word "other," and inserting, after the phrase "consents to it" in the first paragraph of art. IX, the phrase "in open Court, which consent shall be entered upon the record."

The text printed here is the amended text as proclaimed by the President.

² TS 889, *post*, p. 924.

³ TS 969, *post*, p. 938.

shall be found in the territory of the other State: Provided that this shall be done by the United States only upon such evidence of criminality as, according to the laws of the place where the fugitive or person shall be found, would justify his apprehension and commitment for trial if the crime or offense had been there committed. In Switzerland, the surrender shall be made in accordance with the laws in force in that country at the time of the demand.

Neither of the two Governments, however, shall be required to surrender its own citizens.

ARTICLE II ⁴

Extradition shall be granted for the following crimes and offenses, provided they are punishable both under the laws of the place of refuge and under those of the State making the requisition, to wit:

1. Murder, including assassination, parricide, infanticide and poisoning; voluntary manslaughter.
2. Arson.
3. Robbery; burglary; housebreaking or shop-breaking.⁵
4. The counterfeiting or forgery of public or private instruments; the fraudulent use of counterfeited or forged instruments.
5. The forgery, counterfeiting or alteration of coin, paper-money, public bonds and coupons thereof, bank notes, obligations, or other certificates or instruments of credit, the emission or circulation of such instruments of credit, with fraudulent intent; the counterfeiting or forgery of public seals, stamps or marks, or the fraudulent use of such counterfeited or forged articles.
6. Embezzlement by public officials, or by other persons, to the prejudice of their employers; larceny; obtaining money or other property by false pretenses; receiving money, valuable securities or other property, knowing the same to have been embezzled, stolen or fraudulently obtained. The amount of money or the value of the property obtained or received by means of such criminal acts, must exceed 1000 francs.
7. Fraud or breach of trust, committed by a fiduciary, attorney, banker, administrator of the estate of a third party, or by the president, a member or an officer of a corporation or association, when the loss involved exceeds 1000 francs.
8. Perjury; subornation of perjury.
9. Abduction; rape; kidnapping of minors; bigamy; abortion.⁶
10. Wilful and unlawful destruction or obstruction of railroads, endangering human life.
11. Piracy; wilful acts causing the loss or destruction of a vessel.⁷

⁴ For a U.S. amendment of art. II, para. 6, see footnote 1, p. 904.

⁵ For a modification of art. II, para. 3, see treaty of Jan. 31, 1940 (TS 969), *post*, p. 938.

⁶ For a modification of art. II, para. 9, see *ibid*.

⁷ For an addition to list of crimes, see treaty of Jan. 10, 1935 (TS 889), *post*, p. 924.

ARTICLE III

Extradition shall likewise be granted for an attempt to commit, or participation in, any of the crimes and offenses enumerated in Article II, provided such attempt or participation is punishable in the United States as a felony, and in Switzerland with death, or confinement in a penitentiary or workhouse.

ARTICLE IV

No extradited person shall be tried by a Special Court.

ARTICLE V

Demands for the extradition of fugitive criminals shall be made by the diplomatic representative, or, in his absence, by one of the consular agents of the State making the requisition.

When the person whose extradition is asked has been *sentenced* for the offense which occasioned the demand for extradition, such demand shall be accompanied by a certified copy of the sentence pronounced; if the person demanded is merely *charged* with an offense, the demand shall be accompanied by a duly certified copy of the warrant of arrest issued by the competent magistrate of the country in which the offense was committed, and by certified copies of the depositions or other evidence upon the basis of which the warrant was issued. These documents shall contain an accurate statement of the offense charged, of the place where and the time when it was committed. They shall be accompanied by a certified copy of the provisions of law applicable to the offenses charged, as shown by statute or judicial decision, and by the evidence necessary to establish the identity of the person demanded.

The extradition procedure shall be governed by the regulations in force at the time of the demand, in the State upon which the demand is made.

ARTICLE VI

When it is desired to procure the arrest of a fugitive, by telegraph or otherwise, before the regular papers have been presented, the procedure in the United States shall be to apply to a Judge or Magistrate authorized to issue warrants of arrest in extradition cases, and to present a complaint on oath, as provided by the laws of the United States.

To procure the provisional arrest of a fugitive in Switzerland, the diplomatic representative or a consular agent of the United States shall apply to the President of the Confederation who will order the necessary steps to be taken.

The provisional detention of a fugitive shall cease, and the person arrested shall be released, if a formal demand for extradition, accompanied by the necessary papers, is not presented, in the manner provided in the present Treaty, within two months after the day of arrest.

ARTICLE VII

Extradition shall not be granted for political crimes or offenses. No person surrendered under the present Treaty, for a common crime, shall be prosecuted or punished for a political offense committed before his extradition.

If the question arises in a particular case, whether the offense committed is or is not of a political character, the Authorities of the State upon which the demand is made shall decide.

ARTICLE VIII

Extradition shall not be granted when, under the laws of the State upon which the requisition is made, or under those of the State making the requisition, the criminal prosecution or penalty imposed is barred by limitation.

ARTICLE IX ⁸

No person surrendered by either of the Contracting States to the other shall be prosecuted or punished for any offense committed before the demand for extradition, other than that for which the extradition is granted, unless he expressly consents to it in open Court, which consent shall be entered upon the record, or unless, having been at liberty during one month after his final release to leave the territory of the State making the demand, he has failed to make use of such liberty.

The State to which a person has been surrendered shall not surrender him to a third State, unless the provisions contained in the first paragraph of the present Article have been fulfilled.

ARTICLE X

When the person whose extradition is demanded is prosecuted, or has been convicted, in the State of refuge, for another offense, the extradition may be postponed until the close of the criminal prosecution or the expiration of the penalty.

ARTICLE XI

If the extradition of the person demanded by either of the two contracting States is likewise demanded by one or more other States, for offenses committed by the said person in the territory, preference shall be given to the State whose requisition is based upon the most serious offense, unless the State upon which the requisition is made is bound by Treaty to give preference to another.

If the offenses are of equal gravity, the demand first presented shall have preference, unless the State upon which the requisition is made is bound by Treaty to give preference to another State.

⁸ For a U.S. amendment of art. IX, see footnote 1, p. 904.

ARTICLE XII

All articles seized which are in the possession of the person demanded, at the time of his arrest, shall, at the time of the extradition be delivered up with his person, and such delivery shall extend, not only to articles acquired by means of the offense with which the accused is charged, but to all other articles that may serve to prove the offense.

The rights of third parties to the articles in question shall, however, be duly respected.

ARTICLE XIII

The expenses incurred in the arrest, detention, examination and surrender of the fugitive shall be borne by the State making the demand. The State making the demand shall not, however, be charged for the services of such officials of the Government upon which the demand is made, as receive a fixed salary; for the services of officials receiving only fees, no higher fees shall be charged than those to which such officials are entitled under the laws of the country for services rendered in ordinary criminal cases.

ARTICLE XIV

The present Treaty shall go into effect thirty days after the exchange of ratifications. This Treaty repeals Articles XIII, XIV, XV, XVI and XVII of the Treaty of November 25, 1850, between the Swiss Confederation and the United States of America; and the provisions in those Articles shall henceforward apply only to demands for extradition pending at the time when the present Treaty goes into effect.

The ratifications shall be exchanged at Washington as soon as possible. After the denunciation of this Treaty by either of the Contracting Governments, the Treaty shall still remain in force for six months after the day of the denunciation.

In witness whereof, the respective Plenipotentiaries have signed the foregoing Articles, and have affixed their seals.

Done in duplicate at Washington, in the English and French languages, the 14th day of May, 1900.

JOHN HAY	[SEAL]
J. B. PLODA	[SEAL]